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FILED

JUL 24 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
JASON KEITH SMITH,)
)
Defendant.)

No. CR 5:13-MJ-70031 HRL
STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING APPEARANCE
DATE AND EXCLUDING TIME FROM
THE SPEEDY TRIAL ACT
CALCULATION (18 U.S.C.
§ 3161(h)(8)(A))

This matter is scheduled before the Court for an preliminary hearing or arraignment on June 25, 2013. On January 14, 2013, this Court issued a criminal complaint against the defendant related to a violation of 18 U.S.C. 875(c) - Interstate Communications of a Threat. The defendant, who resides in the Eastern District of Michigan, was arrested and made an initial appearance on January 22, 2013 in Detroit before United States Eastern District of Michigan Magistrate Judge Laurie J. Michelson. The defendant is currently represented by Northern District of California CJA Panel Counsel Carleen Arlidge and Eastern District of Michigan Assistant Federal Public Defenders Penny R. Beardslee and Loren E. Khogali. On January 23, 2013, Judge Michelson ordered the defendant released pursuant to conditions, ordered the

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1 defendant be transferred to the Northern District of California for further proceedings, excluded
2 time, and ordered the defendant to appear in the Northern District of California on March 14,
3 2013 at 9 a.m. That initial appearance date was subsequently continued via the parties
4 stipulation to July 25, 2013.

5 The United States and the defendant now jointly request a continuance until September
6 19, 2013 in order to afford defense counsel additional time to effectively prepare and also to
7 allow the parties a further opportunity to discuss a potential pre-indictment resolution of the
8 matter. The parties agree, and the Court finds and holds, as follows:

9 1. The preliminary hearing or arraignment is continued to September 19, 2013.
10 2. Time should be excluded under Rule 5.1 from July 25, 2013 to September 19,
11 2013 in order to allow defense counsel additional time to effectively prepare and also to allow
12 the parties an opportunity to discuss a potential pre-indictment resolution of the matter. The
13 parties agree that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal
14 Procedure and 18 U.S.C. § 3060.

15 3. The time between July 25, 2013 to September 19, 2013 is excluded under the
16 Speedy Trial Act. The parties agree that the failure to grant the requested continuance would
17 unreasonably deny defense counsel reasonable time necessary for effective preparation, taking
18 into account the exercise of due diligence. Finally, the parties agree that the ends of justice
19 served by granting the requested continuance outweigh the best interest of the public and the
20 defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. §

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1 3161(h)(8)(A).

2 STIPULATED:

3 DATED: 7/23/13

/s/

CARLEEN ARLIDGE
PENNY R. BEARDSLEE
LOREN E. KHOGALI
Counsel for Defendant Smith

6 DATED: 7/23/13

/s/

JOSEPH FAZIOLI
Assistant United States Attorney

8 IT IS SO ORDERED.

9 DATED: 7/24/13

HOWARD R. LLOYD
UNITED STATES MAGISTRATE JUDGE

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